

**MINUTES  
HEARING OFFICER  
May 19, 2015**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

Vanessa MacDonald, Hearing Officer  
Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner  
Michael Glab, Code Inspector  
Jack Scofield, Code Inspector  
Julie Scofield, Code Inspector  
Brandy Zedlar, Code Inspector  
Diane McGuire, Administrative Assistant II

**Number of Interested Citizens Present: 10**

Meeting convened at 1:40 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by June 2, 2015 at 3:00 PM, to the Community Development Department.

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Ms. MacDonald noted that the following items had been removed from today's agenda:

**Agenda Item #4:**

Request approval to abate public nuisance items at the **STARDON PROPERTY (PL150163)** located at 3245 South Lebanon Street. The applicant is the City of Tempe.  
**PROPERTY IN COMPLIANCE**

**Agenda Item #5:**

Request approval to abate public nuisance items at the **GROSETA PROPERTY (PL150171)** located at 1420 South Rita Lane. The applicant is the City of Tempe.  
**PROPERTY IN COMPLIANCE**

**Agenda Item#9**

Request approval to abate public nuisance items at the **POWER PROPERTY (PL150177)** located at 1109 East McKellips Road. The applicant is the City of Tempe.  
**CASE MOVED TO JUNE 2, 2015 HO**

**Agenda Item #10**

Request approval to abate public nuisance items at the **NGUYEN PROPERTY (PL150176)** located at 3233 South 48<sup>th</sup> Street. The applicant is the City of Tempe.  
**CASE MOVED TO JUNE 2, 2015 HO**

**Agenda Item #11**

Request approval to abate public nuisance items at the **CLEVELAND PROPERTY (PL150179)** located at 1808 East Concordia Drive. The applicant is the City of Tempe.

**CASE MOVED TO JUNE 2, 2015 HO**

**Agenda Item #12**

Request approval to abate public nuisance items at the **COHN PROPERTY (PL150180)** located at 205 East Fleet Drive. The applicant is the City of Tempe.

**CASE MOVED TO JUNE 2, 2015 HO**

**Agenda Item #15**

Request for a use permit to allow a 60 ft. monopole and equipment for **VERIZON PHO STRAY CAT (PL150037)** located at 2425 East University Drive. The applicant is Steve Ciolek/Coal Creek Consulting.

**CASE CONTINUED TO JUNE 2, 2015 HO. VANESSA MACDONALD NOTED THAT THIS CASE WAS BEING CONTINUED AS A NEW SITE PLAN IS BEING SUBMITTED BY THE APPLICANT. SHE STRONGLY ENCOURAGED THE APPLICANT TO HOLD A NEIGHBORHOOD MEETING TO PRESENT THE REVISED PLAN(S) TO NEIGHBORHOOD RESIDENTS.**

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1. Ms. MacDonald noted that the revised Hearing Officer Minutes for April 21, 2015 had been reviewed and approved. The Hearing Office Minutes for May 5, 2015 had also been reviewed and approved.

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2. Request approval to abate public nuisance items at the **REIDHEAD PROPERTY (PL150161)** located at 961 West Fogal Way. The applicant is the City of Tempe.

Brandy Zedlar, Code Inspector, requested approval of a 180 day open abatement of the property located at 961 West Fogal Way. Notices have been sent to the owner of the property regarding deteriorated landscape and the wood fencing on the east side yard which is missing several slats. There has been no public comment on the case.

Ms. Zedlar noted that the property landscaping had further deteriorated since the staff summary report had been issued and that the additional landscape issues had increased the fiscal impact to assessed costs of \$1452.00.

Ms. MacDonald stated she was going to approve the property abatement.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150161/ABT15023/CE151844 for an open period of 180 days.

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3. Request approval to abate public nuisance items at the **STEFANIAK PROPERTY (PL150162)** located at 1849 East Harvard Drive. The applicant is the City of Tempe.

Jack Scofield, Code Inspector, requested approval of a 180 day open abatement of the property located at 1849 East Harvard Drive for deteriorated landscape. Notices have been sent to the owner of the property with no response. There has been no public comment on the case.

Ms. MacDonald stated this property has a long history of violations and she was going to approve the property abatement.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150162/ABT15024/CE152165 for an open period of 180 days.

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4. Request approval to abate public nuisance items at the **WELSH PROPERTY (PL150172)** located at 2424 East Huntington Drive. The applicant is the City of Tempe.

Michael Glab, Code Inspector, requested approval of a 180 day open abatement of the property located at 2424 East Huntington Drive. Notices have been sent to the owner of the property regarding damaged landscape (dead trees and stumps), weeds, trash and debris as well as a green pool in the back yard. There is also a bee hive located in the back yard near the shed that needs to be removed. As of this date, Mr. Glab, noted that the pool is clear, debris has been removed, tree stumps have been removed, grass and weeds are gone and the cat order eliminated. However the bees remain and the neighbors have complained and have been there since at least February 27<sup>th</sup> with no success at removing them.

Mr. Welsh, the property owner, was present and noted that he had been working on the property in order to resolve the outstanding code issues and that most of them had been taken care are resolved. He indicated that he may need to hire a professional to remove the bees.

Ms. MacDonald stated that she was going to approve the property abatement and explained to Mr. Welsh that there was a two (2) week period in which he could bring the violations up to code prior to the abatement being activated.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150172/ABT15027/CE145870) for an open period of 180 days.

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5. Request approval to abate public nuisance items at the **PHILLIPS/KELLY PROPERTY (PL150173)** located at 1419 East Wesleyan Drive. The applicant is the City of Tempe.

Michael Glab, Code Inspector, requested approval of a 180 day open abatement of the property located at 1419 East Wesleyan Drive. Notices have been sent to the owner of the property regarding trash and debris, a deteriorated roof, dead trees/stumps and deteriorated landscape. There has been no public comment on the case.

Ms. MacDonald stated that she was going to approve the property abatement.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150173/ABT15028/CE143558 for an open period of 180 days.

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6. Request approval to abate public nuisance items at the **DURNAL PROPERTY (PL150147)** located at 8 West Fairmont Drive. The applicant is the City of Tempe.

Julie Scofield, Code Inspector, requested approval of an abatement of the property located at 8 West Fairmont Drive. Notices have been sent to the owner of the property regarding the deteriorated landscape, trash and debris and a dead palm tree. There has been no public comment on the case. Ms. Scofield noted that although there have been some small changes (improvements) in the condition of the property; the bulk of the violations remain outstanding.

Ms. MacDonald stated that she was going to approve the abatement.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150147/ABT15018/CE150039.

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7. Request approval to abate public nuisance items at the **PALMER PROPERTY (PL150123)** located at 419 East Libra Drive. The applicant is the City of Tempe.

Brandy Zedlar, Code Inspector, requested approval of a 180 day open abatement of the property located at 419 East Libra Drive. Notices have been sent to the owner of the property regarding deteriorated landscape (over height weeds and grass). There has been no public comment on the case.

Ms. MacDonald stated that she was going to approve the abatement.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL150123/ABT15017/CE151567 for an open period of 180 days.

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8. Request for a use permit to allow a drive thru for a **COFFEE SHOP (PL150020)** located at 1420 North Scottsdale Road. The applicant is Josh Oehler/Arc One Associates.

Sherri Lesser, Senior Planner, noted that this site is a stand-alone property located at the south end of the Union Plaza Shopping Center. The site was originally built as a Pizza Hut Restaurant in the late 1960's. No menu board and speaker will be used on the site. All transactions will take place person-to-person at the window. The layout eliminates the extra parking available on the site, which staff will require the replacement of some of the original 18 spaces beyond the minimum provided to support this use. Staff has received phone calls from the surrounding residential neighbors regarding this use and a presentation was made at the North Tempe Multi-Generational Center.

Ms. MacDonald questioned the parking spaces that would be retained; Ms. Lesser responded that they would be located along the south property line and indicated on a site plan where that location was situated.

Josh Oehler of Arc One Associates acknowledged the assigned Conditions of Approval.

Mr. Paul Dunham spoke and stated that neighborhood was in support of this business.

Ms. MacDonald noted that this request meets the criteria for a use permit:

- Any significant increase in vehicular or pedestrian traffic.
- Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- Contribution to the deterioration of the neighborhood or to the downgrading of property values, the proposed use is not in conflict with the goals, objectives, or policies for rehabilitation, redevelopment or conservation as set forth in the city's adopted plans or General Plan.
- Compatibility with existing surrounding structures and uses.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

**DECISION:**

Ms. MacDonald approved PL150020/ZUP15049 subject to the following conditions:

1. This use permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed.
2. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit, which may result in termination of the use permit.
3. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.

4. The Property Owner shall replace all dead or missing trees along the street frontages (minimum of 1 tree per 30 linear feet of street frontage) and within the existing required landscape islands and retention areas within the parking lot.
5. ~~Drive thru hours limited to 6:00 AM to 10:00 PM daily.~~ **REMOVED BY HEARING OFFICER**
6. The drive-thru approved for the scope of operation as identified in staff report. No illuminated menu board or speakers will be allowed without re-review of the use permit.
7. Along the south property line, re-stripe the parking spaces the remainder of the distance traveling west to the southwest corner – no end stall required (legal non-conforming).

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The next Hearing Officer public hearing will be held on June 2, 2015.

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#### ANNOUNCEMENTS:

Steve Abrahamson announced that the Tuesday, June 16 Hearing Officer had been moved to Wednesday June 17<sup>th</sup> at 1:30 PM.

Steve Abrahamson announced as of July 1<sup>st</sup>, the Hearing Officer hearings will be held at 5 PM on the scheduled dates, with a study session at 4:30 PM prior to the hearing.

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With no further business, the public hearing adjourned at 2:30 PM.

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Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:



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Steve Abrahamson, Planning & Zoning Coordinator  
for Vanessa MacDonald, Hearing Officer

SA:dm